THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 16731 of 2003

Dated: 23.11.2006

Between:

G. Bala Narsu, S/o Narsaiah, aged about 42 years, Senior Assistant/E.R.O., The Co-operative Electric Supply Society Limited, Sircilla, R/o Sircilla, Karimnagar District.

..... PETITIONER

AND

The Co-operative Electric Supply Society Limited, Sircilla, Karimnagar District, rep. by its Managing Director.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 16731 of 2003

Order:

By this writ petition, the petitioner seeks a Mandamus declaring the proceedings, dated 16.04.1992, issued by the respondent-Society, imposing punishment of deferment of two annual grade increments with cumulative effect, as illegal, arbitrary and contrary to Bye-law 8 (3) of the Special Bye-laws of Service Conditions of Employees of the respondent-Society.

2. When W.P.M.P. No. 30517 of 2006, filed by the petitioner to fix an early date of hearing of the writ petition, is taken up for hearing, it is represented by the learned counsel for the petitioner as well as the learned Standing Counsel for the respondent-Society that the subject matter of this writ petition is squarely covered by a Division Bench judgment of this Court in ***"Depot Manager, A.P.S.R.T.C., Anantapur District v. K. Adireddy***[1]***,*** wherein it was held thus.

> "In regard to the delay, the appellant cannot take recourse to any action which is contrary to law and affects the substantive rights of the employees. And, when it is found that the impugned action is wholly unsustainable, there cannot be any bar for exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India irrespective of the remedies as available under the Regulations. In fact, it is the consistent erroneous stand all along of the appellant-Corporation that in such a situation, the penalty imposed would only fall within the minor penalty; hence no regular enquiry need be necessary. We do not find any legal justification in support of the stand taken by the appellant-Corporation. Having regard to the aforesaid reasons and in view of the principles as laid down by the apex Court, we hold that under Rule 8 (iv) of the Regulations framed by the Corporation itself in withholding of increments with cumulative

effect would squarely be a major penalty and it would attract the regular procedure under the Regulations for an enquiry after following due notice and opportunity. Hence, we do not find any merits in these appeals.

The appeals are accordingly dismissed. No costs."

3. Hence, following the said decision and for the reasons mentioned therein, this Writ Petition is also disposed of in terms thereof. No costs.

_____

N.V. RAMANA, J.

Date: 23.11.2006
NSR/GRR

---

1 2006 (4) ALD 501 (DB)